

ENCA



Environmental Network *for* Central America

Issue 81 | April 2021

www.enca.org.uk

Land Grabs

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COP26

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**PANAMA RECOGNISES INDIGENOUS
PEOPLES AS GUARDIANS OF THE
ENVIRONMENT**



ENCA aims to work directly with people in communities who are seeking to arrest environmental degradation and who are often struggling against the repression and violence of armies and police forces acting under the command of wealthy individuals, transnational corporations and corrupt politicians. We campaign with them to place environmental rights within national constitutions and to ensure that the exploitation of natural resources benefits the many and not just the few and is carried out within sustainable and renewable bounds.

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Community development, climate change and environmental awareness raising in the San Blas Islands of Panama

In 2020 ENCA granted \$4,000 (USD) to the Centre for Environmental and Human Development (CENDAH) of the Guna Indigenous People of the San Blas Islands in Panama for their programme of development as described in the title of this article. On 4th January this year, ENCA received an advance report on the progress of the programme from the Director of CENDAH Geodisio Castillo. ENCA member Jill Powis translated the report which is too long to include in its entirety here. So we have included selected extracts from Jill's translation below. We are grateful to Jill for the translation and of course to Geodisio for overseeing the implementation of the programme so far and for the report.

In June [2020] we started the initiative 'Addressing the community development of the Gunadule people from the perspective of climate change and biodiversity', aimed at raising the environmental awareness of the Mandi Ubgigandub community, in Gunayala Comarca, Panama, with actions to promote food production, and thus the quality of life in the face of Covid-19.

We have so far been unable to implement the initiative as planned due to the COVID-19 pandemic. As a result, this progress report only refers to a set of activities involving the exchange of information.

The scope of the initiative covers the Gunayala Comarca, with the activities carried out in the *nainu*, or agroforestry plot of the Olonagdiginya young farmers' group, whose headquarters are in the Mandi Ubgigandub community. The community, and thus the initiative's focus, is on the Gulf of Gunayala, in the western part of the Comarca, bordering Colón province.

There are 40 Olonaigdiginya young people implementing the initiative in the field, mainly in relation to food production, from different communities in the Gardi area or Gulf. They aim to protect the western border area of the Comarca, conserve natural resources and promote food production.

The production area is a humid to very humid tropical rainforest, with high annual rainfall of up to 5,000 mm – that is almost 200 inches. With temperatures of up to 35°C, and fertile soils for crop

production, the area still has 80% natural vegetation cover.

Agricultural production is primarily for domestic consumption, but it is not sufficient. The main crops consumed or cultivated are bananas, plantains, cassava, yams, corn, rice, and fruit such as coconuts, avocados, oranges, mangos, guabas and guanabana, among others. Bananas, cassava and maize are the most important crops in the diet, while coconut is the only cash crop and goes to the Colombian market, generating some income, but unfortunately the pandemic is currently preventing access to this market.

The *nainu* family-based agroforestry management that the initiative aims to promote was until very recently being carried out in a fragmented way. A primary aim of the initiative is to restore these *nainu* agroforestry systems with methodologies based on ancestral knowledge. A major problem at the moment with the application of ancestral knowledge to agriculture is that the system has ceased to be practised by farmers (even by a minority) because of the exogenous influence of monoculture agriculture, and it is that which is being taught in schools.

This initiative proposes a methodology of intervention in the community of Mandi Ubgigandub which would allow us first of all to ascertain the current state of the community's environment. On the basis of this, we would design awareness-raising workshops, exchange experiences, establish *nainu* agroforestry plots applying the methodology of 'learning by doing', >>

and raise awareness among the leaders by attending local and general congresses. The aim is to raise environmental awareness among the villagers, taking into account their material and spiritual capacities, based on the principle of community self-development whereby participation and cooperation develop a critical awareness of the need to bring about environmental change. It would also create the capacity to develop and adopt a model of food production that would lead to solutions to environmental problems which currently endanger the continuity of life and biodiversity on our planet.

The above paragraph outlines the way in which we originally intended to carry out the initiative in the Mandi Ubgigandub community. However, with the pandemic and the quarantine imposed on the Comarca by the two general congresses (the Guna General Congressⁱ and the General Congress of Guna Cultureⁱⁱ), it was not possible for the CENDAH team to physically enter the community, which had been willing to engage in dialogue. So the dialogue was conducted by mobile phone at various times. It was not, and is still not, possible to carry out an environmental assessment, because the quarantine measures continue.

Two seminar-workshops have been held with the Olonagdiginya group. The group made the decision to start the cultivation of yam (*Dioscorea* sp.) and banana / plantain (*Musa* sp.). Assistance as workshop facilitators was provided by experienced Gunadule technical staff from the Gunayala Agency of the Ministry of Agricultural Development (MIDA)ⁱⁱⁱ. A member of the CENDAH staff also provided technical input remotely. For the trainings, the 'learning by doing' method was used.

The first workshop was held in October 2020, in the Arridi agroforestry plot, belonging to the Olonagdiginya group. The dialogue focused on the exchange of farming knowledge and experiences. 13 young farmers participated. Their plot was already growing the perennial crops of orange and lemon trees. They had also

planted bananas and plantains with a view to improving existing crops by replacing diseased crops with new strains.

The second workshop took place the following day, because it was important to make the most of the time available, as when they left they would not be able to return due to quarantine restrictions. The group was trained in the cultivation of roots and tubers, mainly yams. For yams, they were trained in how to select the seeds or rhizomes and how to cut the rhizomes into pieces for planting.

Participatory monitoring and evaluation were carried out. The farmers themselves were trained by the CENDAH technician by telephone in how to analyse the project's physical, biocultural and social environment in order to identify potential problems with the proposed measures and residual, cumulative or expected impacts that could affect ecosystems, the health of living beings and the environment.

The Olonagdiginya farmers' group was provided with all necessary biosecurity materials, such as masks, alcohol gel, alcohol, etc. In this way, we complied with the protocol established in the Comarca and by the Ministry of Health.

Attendance at the General Congress of Guna Culture. This event, the ordinary assembly of the Comarca, was held in the community of Aggwadub, in November 2020. CENDAH was able to attend and report on the initiative, and a report was also sent by the Olonagdiginya producers. CENDAH wanted to take the opportunity to go to the Mandi Ubgigandub community, but was not allowed to do so for security and biosecurity reasons.

Presentation at a virtual conference, the National Meeting on Sustainable



The Guna Yala region of Panama

Development (ENADES)^{iv} on the benefits of the 'Nainu Agricultural Production Systems' Project by the Olonagdiginya producers in Mandi Ubgigandub, an academic event organised by the International Centre for Sustainable Development (CIDES)^v in October 2020.

Activities not yet carried out

- Environmental assessment
- Exchange of experiences
- Attendance at the General Congresses. This failed to happen because with the pandemic the Congresses have not held their ordinary assemblies in 2020, except for the General Congress of Guna Culture.

NEXT STEPS

- Carry out the **environmental assessment** in February, in the hope that the effects of the Covid-19 pandemic will have diminished in the Comarca. We are seeing that the quarantine imposed by the communities is being effective, minimising cases.
- To organise the **exchange of experiences** for April, when the bad weather and strong waves will have passed.
- Attend the **General Congress ordinary assembly**, which might take place in April.
- **Virtual conference** with producer groups on environmental issues and food production in times of pandemic.
- Continue with the **monitoring and evaluation** of the agroforestry plots already established.
- Carry out other activities related to this initiative.

ⁱ Congreso General Guna

ⁱⁱ Congreso General de la Cultura Guna

ⁱⁱⁱ Agencia de Gunayala del Ministerio de Desarrollo Agropecuario

^{iv} Encuentro Nacional de Desarrollo Sostenible

^v Centro Internacional de Desarrollo Sostenible

Panama's Supreme Court recognizes Indigenous Peoples' land rights and role as guardians of the environment

By Sarah Dorman and Carla García Zendejas, Attorneys at the Centre for International Environmental Law (CIEL).

Originally posted on January 20, 2021 by the Centre for International Environmental Law (CIEL, [ciel.org](https://www.ciel.org)). We are grateful to CIEL for allowing reproduction of this article through their Creative Commons License¹. In 2009 and 2010, ENCA reported first-hand, through its members present on the ground, on the struggle of the Naso Indigenous People in north-west Panamá. Thanks to CIEL this article reports on a critical step in recognition of the land rights of the Naso, but the significance of this step reaches further than the Naso.

In a key decision paving the way for the creation of the long-awaited Naso Tjër Di Comarca, Panama's highest court confirmed the State's obligation to secure Indigenous collective rights to land and emphasized the critical role of Indigenous Peoples in protecting biodiversity, natural resources, and the climate. The decision joins a growing chorus of similar cases aimed at upholding Indigenous Peoples' rights around the world.

The Indigenous Naso people — like many other Indigenous Peoples around the world — have struggled for generations to retain access to and control over their ancestral territories, which are central to preserving their cultural identities, surrounding environment and spiritual relationship with the lands that they have inhabited for millennia. Late last year, the Naso people achieved a key victory when Panama's highest court sided with them in a ruling to uphold their communal right to their ancestral land.

As one of Panama's seven Indigenous Peoples, the Naso people have lived in the areas surrounding the Teribe River on the northwestern edge of Panama for generations. For the last fifty years, they have sought to have their traditional lands

officially recognized under Panama's system of semi-autonomous Indigenous regions, known as comarcas. This struggle has involved numerous initiatives undertaken by the Naso people both nationally and internationally, including advocacy before the Inter-American Commission on Human Rights.

The repeated encroachments that Naso communities have endured over the years illustrate the critical need for legal recognition of the Naso people's claims to their ancestral lands. In some instances, Naso communities have even faced violent evictions and the destruction of their homes and crops (See ENCA 49).

A turning point for the Naso people came in 2018, when their decades-long campaign finally succeeded in getting Panama's legislature to formally recognize their traditional lands by passing legislation to establish the Naso Tjër Di Comarca. However, this legislative victory was soon delivered a blow when then-President Varela vetoed the law, calling it "unenforceable" and "inconvenient."

Ultimately, the fate of the Naso people's territorial claim made its way to Panama's highest court, the Supreme Court of Justice. On October 28, 2020, the Court issued its ruling in this case, paving the way for the Comarca's creation and expanding the set of legal precedents that courts are developing around the world to uphold Indigenous Peoples' rights.

A critical decision for Indigenous land rights

This ruling regarding the Naso people's claims to their ancestral lands in Panama comes decades after Convention 169 of the International Labour Organisation on Indigenous and Tribal Peoples (1989) and

Convention 107 of the International Labour Organisation on Indigenous and Tribal Populations (1957) had established a clear international legal framework on the rights of Indigenous Peoples, including their rights of ownership and possession of their traditionally occupied lands. In the years since, this legal framework has been further developed through the United Nations Declaration on the Rights of Indigenous Peoples and the American Declaration on the Rights of Indigenous Peoples. These instruments make clear that Indigenous Peoples have collective rights to the lands, territories, and resources that they have traditionally owned, possessed, and used and that States are responsible for ensuring legal recognition and protection for Indigenous Peoples' lands, territories and resources.

In considering whether the legislation creating the Naso Tjër Di Comarca should be allowed to take effect in this case, Panama's Supreme Court of Justice emphasized that the Panamanian State has a duty to ensure Indigenous land rights. Specifically, the Court described how, according to the Panamanian Constitution, this obligation requires the Panamanian government to secure for Indigenous communities the necessary lands and collective property rights to these lands for the achievement of their economic and social well-being.

By adopting this decision, Panama's highest court joined the ranks of other regional and national tribunals in acknowledging Indigenous Peoples' property rights over ancestral lands, such as in the landmark cases: *Yakye Axa v. Paraguay* and *Mayagna (Sumo) Awas Tingni v. Nicaragua*, decided by the Inter-American Court of Human Rights; *Endorois Welfare Council v. Kenya* and *African Commission on Human and >>*

1. The original article can be found at: <https://www.ciel.org/panamas-supreme-court-recognizes-indigenous-peoples-land-rights-and-role-as-guardians-of-the-environment>



stewards of the biodiversity, ecosystems, and natural resources that make up their environment. This is demonstrably the case in the area that is home to the Naso people, who have protected and conserved the lush tropical forest along the

protected, as Panama's highest court did for the Naso people in this case. At the same time, the experiences of other Indigenous communities — from the Yaky Axa in Paraguay to the Mayagna (Sumo) Awas Tingni in Nicaragua — demonstrate that even after land rights receive recognition, political will is needed to ensure that these rights are respected and enforced. For example, in previous cases in Panama, official demarcation of Indigenous territories hasn't been completed even after comarcas have been legally brought into being. This has left Indigenous communities — such as those who have long awaited official demarcation of the áreas anexas of the Ngäbe, Buglé, y Campesinos Comarca in Bocas del Toro — with uncertain legal status, which undermines their efforts to protect their ancestral territories in the face of outside pressures aimed at accessing their lands and exploiting their resources.

Peoples' Rights v. Kenya (regarding the Ogiek Community of the Mau Forest), decided by the African Commission and the African Court on Human and Peoples' Rights, respectively; and the case of the Federación de la Nacionalidad Achuar del Perú, in which a Peruvian court recognized the Federación as a self-governing entity in representation of the Achuar Indigenous Peoples and ordered the recognition and titling of their territory.

A key step forward in recognition of Indigenous Peoples as guardians of the environment

In its ruling, Panama's highest court took another important step by explicitly recognizing the key role that Indigenous Peoples play in protecting biodiversity and maintaining a healthy environment. In its own words, the Court considered:

"[W]ithout a doubt, that ancestrally the Indigenous population has preserved the environment in the places where they have settled, because they are bearers of ancient knowledge about biodiversity, plants, animals, water, and climate that allows for the sustainable use of the resources available to them." [Translation by CIEL.]

This explicit recognition by Panama's highest court echoes the well-established understanding — expressed by such experts as Victoria Tauli-Corpuz during her tenure as the UN Special Rapporteur on the rights of Indigenous Peoples — that Indigenous Peoples are among the best

Teribe River, effectively preventing the deforestation that has occurred at much higher levels in surrounding areas.

Panama's Supreme Court of Justice further emphasized the significance of the intrinsic relationship between Indigenous Peoples and the environment, adding that:

"Hence, the link between culture and the environment among Indigenous Peoples is evident. That is, from a careful analysis of their traditions, it becomes apparent that they share a spiritual, cultural, social and economic relationship with their traditional lands. Likewise, [their] laws, customs, and traditional practices reflect both an attachment to the land and the responsibility to conserve it for the use of future generations." [Translation by CIEL.]

Going forward: Translating Indigenous land rights into effective decision-making authority

Following the decision by Panama's Supreme Court of Justice, the executive branch was constitutionally required to move forward with ratifying the legislation creating a comarca for the Naso people. This occurred on December 4, 2020, when current President Cortizo Cohen travelled to Sieyick, the seat of government of the Naso people on the banks of the Teribe River, in order to sign the law and finally bring the Naso Tjër Di Comarca into being.

Going forward, Indigenous Peoples' land rights must be consistently recognized and

In addition, for Indigenous Peoples to be able to effectively exercise their right to conserve, restore, and protect the environment in their traditional lands, legal recognition of their rights must translate into corresponding decision-making authority over what happens in their territories in practice. Unfortunately, it has repeatedly been the case in Panama that legal recognition alone has not been sufficient to protect Indigenous lands against incursions by outsiders — such as private agriculture and tourism companies, as well as illegal miners and loggers — as has been emphasized by James Anaya, another former UN Special Rapporteur on the rights of Indigenous Peoples.

Despite the challenges that remain, the recent ruling that upheld the Naso people's territorial rights and paved the way for the creation of the Naso Tjër Di Comarca is indicative of a growing chorus of judicial decisions and government policies upholding Indigenous land rights around the world. Through this decision, Panama's highest court has given new momentum to the ongoing work, led by Indigenous Peoples, of ensuring that their legal rights serve in practice to allow them to protect their lands and natural environment for generations to come.

Nicaragua, COP26, Climate Justice and Reparations

This article was first published by the Nicaragua Solidarity Campaign (NSC). We are grateful to author Helen Yuill, a coordinator of the NSC as well as a member of ENCA, for permission to reproduce the article in the ENCA Newsletter. Helen made minor revisions of the original article for this newsletter.

In the lead up to COP26 in November this year, the Nicaraguan representative Dr Paul Oquist, argues that the high level of social and economic destruction caused by Covid-19 and its impact on humanity will be 'small, transient and recoverable' compared with the potential total, irreversible destruction of the climate crisis.

This is a view now shared by millions across the globe.

Climate injustice is inseparable from social and economic injustice

Countries of the Global South, such as Nicaragua, have been impoverished by colonialism and centuries of subjugation to the needs and wants of the North. The resulting climate injustice is therefore inseparable from the multiple forms of social and economic injustice and inequality between and within nations.

In the case of the climate crisis, countries of the Global South – such as Nicaragua – and their most marginalised citizens suffer the most severe consequences of climate extremes for which they bear least responsibility. These countries also lack the resources to confront the violence of poverty, the violence of Covid-19 and violence of the climate crisis.

Climate Justice and reparations for loss and damage

COP13 in Warsaw agreed the 'Warsaw International Mechanism for Loss and Damage'¹. The mechanism acknowledges that "loss and damage associated with the adverse effects of climate change includes, and in some cases involves, more than that which can be reduced by adaptation."

An Alliance of Small Island States and Least Developed countries argued a long-standing claim for reparations for the disproportionate loss and damage they had suffered. However, this was strongly resisted by developed countries, especially the US, and the final agreement focuses on 'enhancing knowledge and understanding' and 'strengthening dialogue and coordination', and 'capacity building'.

The Paris Agreement 2015 (COP21) fudges the issue of loss and damage

Nicaragua initially refused² to sign the Paris Agreement arguing that "doing so would mean being complicit to an Agreement that would lead to a catastrophic three degree increase in global warming because 'the largest polluters lack the political will and ambition to address the most pressing issue facing the planet and humanity'."

Instead of apportioning blame to the largest polluters, COP21 invented the concept of universal responsibilities which effectively meant that "we are all responsible for climate change and we all

have to contribute to the solution". This nullified the concepts of historic responsibilities and common but differentiated responsibility central to the UN Convention on Climate Change.

Although the Paris Agreement provides for the continuation of the Warsaw International Mechanism it explicitly states that its inclusion "does not involve or provide a basis for any liability or compensation". The inclusion of this clause was the condition on which developed countries, particularly the United States, agreed to a reference to loss and damage.

This meant that there was no apportioning of blame on the largest polluters, including the UK, historically responsible for the highest levels of emissions. In effect this means forcing countries of the Global South to bear the cost of climate extremes through loss of lives, livelihoods and environmental destruction.

After COP21 Paul Oquist stated: "The Paris outcome is similar to the rescue by governments of the banks which caused the 2008 financial and economic crisis,



Paul Oquist at COP21

passing the bill for the crisis on to workers, pensioners and taxpayers. In Paris, the rescue was of the COP21 governments which have caused global warming, passing the cost to those least responsible who will die in the largest numbers unable to make good their losses, much less adapt to a change in climate increasing in intensity as the century wears on."

COP26 in Glasgow, November 2021

In the lead up to COP26, Nicaragua is advocating that leaders of countries such as the UK, who are most responsible for causing the crisis, must recognise and act on their historic responsibility to provide reparations in the form of climate finance.

Loss and damage must be raised to the same level as mitigation and adaptation: this is what would constitute climate justice.

For countries such as Nicaragua, this finance is critical to enable them to change their energy matrix to renewables, to finance extensive reforestation, to put in place other emission reduction measures, and to meet sustainable development goals, particularly in poverty reduction.

Nicaragua is also calling for an international green alliance which would bring together developed and developing countries to confront the climate crisis.

1. reference:

<https://unfccc.int/topics/adaptation-and-resilience/workstreams/loss-and-damage-ld/warsaw-international-mechanism-for-loss-and-damage-associated-with-climate-change-impacts-wim>

2. *Nicaragua ratified the Paris Agreement in 2017 after finding itself – for completely opposite reasons – in a club of two with the Trump administration.*

Nicaragua Solidarity Campaign:
nicaraguasc.org.uk



Banana prices have always been too low

The following short article appeared in a Banana Link blog dated 12th December 2020. It was written by Angelica Hicks and Emily Gove who work for Equal Exchange Produce, a US for-profit organisation, similar in aims and practices to the UK's Traidcraft and the UK's Equal Exchange Trading. We are grateful to Angelica, Emily and Equal Exchange for permission to reproduce the article here and we urge our readers to visit the Equal Exchange website at: equalexchange.coop. We are also grateful to Banana Link with which most ENCA members will already be familiar and whose website is at: www.bananalink.org.uk.



By Angelica Hicks and Emily Gove
Equal Exchange Produce
December 2020

In the past two days, Del Monte, Dole and Chiquita have announced their intentions to add surcharges to their banana contracts in the US, following extensive damage to their operations in Central America as a result of hurricanes Eta and Iota. The news is making ripples across fresh produce publications and, very likely, produce industry boardrooms, and for good reason. It has the potential to force a conversation that is long overdue.

Equal Exchange Produce, a Fairtrade, organic importer in the US, has worked with small-scale farmer cooperatives for 15 years. Our banana partners work in Ecuador and Peru, and supply a relatively specialised market within the US, largely made up of independent, cooperative and natural foods stores. As a brand, we have often been alone in raising the topic of exploitative banana prices, in a market demanding both availability and cosmetics at a price that sustains neither of the two.

The reality is this: bananas are a labour-intensive crop. Any banana you find in a grocery store in the US (¹ And in the UK, we might add.) – whether conventional or organic – has been cut down from its plant in a massive cluster, carried on a shoulder, pulled to a pack shed, washed multiple

times, cut into perfect bunches, stickered, packed and inspected, all by hand. The many people that contribute to the banana production process are also those that bear the consequences of low prices, which large retailers and conventional banana companies push down the supply chain until they land on the shoulders of farmers and workers.

The devastating hurricanes in Central America, which have destroyed upwards of 12,000 hectares in banana cultivation and impacted livelihoods across the region, are an important reason to pay more for bananas now. Still, it's a shame that it takes a crisis of this magnitude to force a meaningful price increase, despite the well-documented externalised costs borne almost entirely by producer communities.

In the US consumers are conditioned to think that bananas are inherently cheap. What they don't know is the impact of artificially low prices, or the precarious position in which they place farmers and workers.

Equal Exchange will continue to push for sustainable prices across the industry. We hope this moment signals a turning point in the industry conversation about the price – and value – of bananas.

Maya Communities Respond to Land Predation and FPIC Violation in Belize

We are grateful to the North American Congress on Latin America (NACLA) for permission to reproduce this article By Levi Gahman, Shelda-Jane Smith, and Filiberto Penados in this edition of the ENCA Newsletter. NACLA Report on the Americas is a progressive magazine covering Latin America and its relationship with the United States – nacla.org More details on the authors, to whom we are also very grateful, are given at the end of the article. The original article can be found at: <https://nacla.org/news/2020/12/13/maya-land-fpic-belize>

Maya villages in Toledo District, Belize reported that during October speculators illegally opened survey lines in an attempted land grab. The lines were established without **Free, Prior and Informed Consent (FPIC)**, cut through forests and corn and cacao fields, and the living spaces and homes of Maya families. The survey activity was reported in a press release issued by the Maya Leaders Alliance (MLA) and Toledo Alcaldes Association (TAA).

State-sanctioned FPIC violations against Q'eqchi' and Mopan Maya communities have been going on for decades. But these most recent encroachments call into question the Government of Belize (GoB)'s commitment to recognizing Indigenous land rights. They occur five years after the Maya won an unprecedented legal victory in the Caribbean Court of Justice (CCJ) regarding the recognition of Indigenous land rights. The 2015 CCJ decision affirmed that communal land tenure of Maya communities is commensurate with property rights found in the Belizean constitution. Since the ruling, however, the GoB has not complied and refused to meaningfully engage in delimiting and protecting Maya lands, which are conditions of the CCJ order.

Maya Alcaldes (traditional leaders) led investigations into the recent unauthorized surveying and found that it involves foreign parties, non-Maya individuals from outside of Toledo District, and speculators from southern Belize. Surveyors were claiming between 30 and 400 acres of land, which contravenes the 2015 CCJ order, and the United Nations Declaration on the Rights of Indigenous People (UNDRIP), which the GoB adopted in 2007. Land predation of this nature, which violates FPIC, has historically facilitated

corporate extraction, and environmental damage to Maya lands.

Cease and Desist: The Maya Response

Q'eqchi' and Mopan villages are located throughout the southernmost region of Belize, Toledo District. Within Toledo District, there are 39 Maya communities that comprise over 20,000 Maya people. Each community has two traditional leaders, called alcaldes, meaning 78 alcaldes constitute the TAA. The TAA is the main representative body and highest central authority of the Maya people in the region, which has historically had a complex relationship with the national government. The communities are also supported by an autonomous social movement, the MLA, which is made up of Maya land defenders.

Upon being alerted of the incursions by village leaders, the MLA and TAA issued a formal statement reminding the GoB that it is legally obligated to, "...cease and abstain from any acts, whether by the agents of the government itself or third parties... that might adversely affect the value, use, or enjoyment of the lands that are used and occupied by the Maya villages, unless such acts are preceded by consultation with [Maya people] in order to obtain their informed consent."

In an interview reproving the encroachments shortly after they were reported, Maya land defender and MLA spokesperson, Cristina Coc, pointed out that the increase in FPIC violations were coinciding with the run-up to the national election in Belize, which took place on November 11, stating, "...one has to ask the question whether or not it is politically motivated, and whether or not it is related

to what we have seen historically in Belize, where around campaign time politicians offer land in exchange for votes."

Upon denouncing the attempted land grabs at a hearing before the Inter-American Commission of Human Rights (IACHR), the MLA and TAA submitted a request for precautionary measures against the GoB to halt all illegal activity. Rather than an isolated issue related to the ownership of private property, movement activists reiterated that grabbing communal Maya lands poses a grave threat to the material wellbeing and cultural survival of Q'eqchi' and Mopan people who are experiencing the slow violence of dispossession and extractivism.

This is a story about Indigenous resistance to ongoing assertions of post-colonial power, capitalist logics, and Western worldviews. The GoB is based upon a Westminster model of governance imposed by British imperialists that has failed former colonies all over the world. Moreover, the GoB has a track record of abetting multinational corporations while repudiating Indigenous people's claims to communal land ownership, notions of complex tenure, and right to self-determination. Coc, who has bore witness to decades of state-sponsored FPIC violations, summed up the GoB's persistent penchant for land grabbing by stating, "there's always been incursions on Mayan land, this is exactly why we went to the courts (CCJ) to seek affirmation of protection".

Denial and Disavowal: The State Response

The GoB's response to the Maya came on October 30. Patrick Faber, leader of the then ruling United Democratic Party, >>

admitted that, in accordance with the CCJ decision, the presence of surveyors without the consent of the Maya would indeed be illegal. But he dismissed the allegations by the Maya and Coc by stating, “I listened very carefully as Miss Coc spoke and there is no evidence to that [surveying] happening... ..She is only telling you what she saw and what people reported is happening but no concrete evidence of anything happening.”

Despite the Maya issuing written reports with photographs to both the Lands and Surveys Department and Attorney General, the GoB rejected the claims by suggesting there was no evidence. Incidentally, for nearly a year in 2015-2016, Coc, along with 12 other Maya activists, were detained, jailed, and dragged through the courts by the GoB after protecting a sacred heritage site against similar incursions. Despite the criminalization, all the charges levied against the Maya environmental defenders were eventually dismissed.

Similar to Faber’s response, Belize’s Attorney General, Michael Peyrefitte, implying the Maya were merely trying to make the government look bad, said to Coc, “...if you have a legal issue ma’am, go dah court. To me, you don’t really have a legal issue because if you had a real legal issue, you would go to court, you wouldn’t go to the media.” Peyrefitte then went on to suggest the Maya wanted a “separate country” and that Indigenous people’s self-determination was irrelevant in the face of state power, asserting, “they [the Maya] may not like to hear that... ..nothing can stop the executive of the country to do what it feels like it needs to do for the betterment of the country.”

The Attorney General’s response ignores the actual allegations of land grabbing being made against the GoB. Instead, Peyrefitte suggests the encroachment claims are irrelevant because “they want their own country,” which is a rhetorical attempt to undermine both Coc’s credibility and the validity of the reports issued by Maya Alcaldes. The state’s evasive response was a divisive disavowal of Maya land rights. And by prioritizing the desires of private capital over Indigenous

people’s customary systems, relationships with the environment, and livelihood strategies, which the GoB has a history of, it is also hostile and dehumanizing.



State Authoritarianism vs. Indigenous Autonomy

When we consider the GoB’s response alongside the ongoing struggle for Indigenous land rights in southern Belize, three issues require urgent attention.

Firstly, good faith leadership is lacking because the government refuses to investigate the claims of Maya Alcaldes. The GoB insists that because the Maya used the media to raise awareness about FPIC violations, they do not have a ‘real’ issue. This argument is nonsensical and contrived.

Secondly, when Indigenous people report violations to government agencies, agencies are slow to investigate—if they investigate at all. Moreover, arguing Indigenous people must always operate (i.e. “go to court”) and exist on the state’s terms is colonial. This is not an uncommon refrain from the state, though, as the GoB realizes that going to court for rural subsistence-based Maya communities is an expensive and protracted process. Certain government agents also realize that, even if the courts rule against the state, it can get away with violating decisions and rule of law, as it has done before.

Why, when under legal mandate to protect Maya land rights, are the claims discounted without investigation? Furthermore, in addition to photographs and reports, what would

satisfy the state’s need for and definition of “concrete evidence”?

Lastly, the imperious tones of Faber and Peyrefitte’s responses are not only dismissive, but dangerous—and not only for the Maya. Peyrefitte says, “...nothing can stop the executive of the country to do what it feels like it needs to do for the betterment of the country.” This is authoritarian nationalism par excellence and should concern the whole of Belize.

The GoB’s lack of rights-based leadership and draconian posturing is nothing new. Back in 2015, when the CCJ ruling was passed in favour of the Maya, the GoB’s Attorney General was quick to diminish Maya customary tenure by stating Indigenous land rights “cannot trump the constitutional authority of the government.” Hence, the state appears only to be willing to take the lead on refuting the rights of Indigenous people and fettering Maya autonomy.

Maya leaders afforded the GoB the opportunity to demonstrate good faith adherence to consent processes and strengthen its relationship with Maya communities. It was also a chance for state officials to denounce FPIC violations, prevent deleterious land encroachments, and uphold its obligation to protect customary Maya land rights, as ordered by the CCJ. Instead, the GoB doubted the veracity of the Alcaldes’ reports, attacked the credibility of Maya people, attempted to turn the larger population against the Maya, and declared to all citizens of Belize it could impose upon them whatever it wanted, arbitrarily, for “the betterment of the country.”

The Reality of Land Grabs under Covid-19

These encroachments on Maya land during the pandemic threaten their livelihoods, says, MLA spokesperson Cristina Coc:

...not only are farms and milpas being affected, but even residential areas where we have our own villages living. This is concerning because it impacts our >>

livelihood, and we have seen throughout the Covid pandemic how valuable land is, and how valuable the production of land is for the food security of Mayan communities and Belizeans alike.

We recognize that the government cannot feed our people, they cannot employ all of our people, they cannot rescue us from this economic spiral that we're experiencing. But what we can do is provide full security for our people by protecting their tenure on the land...

...it is very alarming that the government would allow such actions—the Maya communities have been informed and are aware that there is a standing consent order that affirms our rights and protects ancestral rights to lands and territories.

The authoritarian behaviour and contemptuous rhetoric of the GoB continues to disrupt Indigenous life and close avenues for Maya people to exercise their rights and have their voices heard. It is also signalling to all Belizean people that the state is more than willing to sacrifice the rights and wellbeing of the marginalized at the altar of 'development'.

Filiberto Penados is Chair of the Julian Cho Society and technical advisor to the Toledo Alcaldes Association and Maya Leaders Alliance. His research focuses on Indigenous future-making.

Shelda-Jane Smith's research focuses on the conceptual, social, and political dimensions of contemporary psychology and biomedical practice, with an emphasis on youth wellness.

Levi Gahman focuses on emancipatory praxis, environmental defense, and engaged movement research. He is author of Land, God, & Guns: Settler Colonialism & Masculinity (Zed Scholar).

This research was supported by a Heritage, Dignity, and Violence Programme Grant from the British Academy under the UK's Global Challenges Research Fund (Award: HDV190078), for which all the authors are co-investigators and collaborators.

Land and autonomy for Indigenous peoples in Costa Rica: Remembering Jehry Rivera

28 February 2021

Térraba. Territorio Brörán en Resistencia, Costa Rica.

Jehry Rivera was an Indigenous land rights defender – reclaiming land occupied by ranchers – in the territory of Térraba, Buenos Aires, in the Southern Zone of Costa Rica. Jehry was assassinated by several shots from a firearm on February 24, 2020 in the Indigenous territory of Térraba. See the previous three ENCA Newsletters (Nos. 78, 79 and 80) for more details. The previous night 150 to 200 non-indigenous farmers had organised and formed a mob to surround the town of Térraba, burned land, insulted, harassed and attacked a group of Indigenous people who had recovered their ancestral territory. The assassination took place in an area in which the Inter-American Commission on Human Rights (IACHR) had issued protective measures for the Indigenous population as a result of the constant threats they had been receiving from land owners who were seeking to appropriate their territory.

Here Costa Rican anthropologist Jiri Spendlingwimmer provides an account of February's vigil to commemorate Jehry's life and to continue the struggle for Indigenous land rights in Costa Rica. His report has been translated and summarised by ENCA member Liz Richmond. We are grateful to Jiri and Liz for these contributions.

We remember Jehry Rivera, land defender – one year after his assassination.

A 5 day vigil took place to commemorate the life of Jehry Rivera, who was assassinated on 24 February 2020, during a mob attack by around 150-200 non-indigenous farmers, following recovery of their own legally recognized territory.

The vigil allowed for a space of reflection, around a communal fire which supported the ceremony in allowing for the most sincere feelings to emanate, which has strengthened the Brörán people's conviction to continue to fight for the protection and recovery of their ancestral land.

The continual fire and the full moon enhanced the splendour and energy of all those present, providing a magical remembrance of Jehry and the spiritual connection to the land. Many children participated in the vigil, ensuring that messages are reaching the custodians of the future. Similarly, elderly people's presence was valued, as their advice and guidance has allowed for growth, strength and nourishment, making the Brörán people what they are today.

On the penultimate day of the vigil an offering was made to the revered Río Grande, (the 'Great River') in Térraba, which the Brörán people have the mandate to protect. This served to give thanks for what the river provides, but also to ask for protection and purification as the river suffers daily pollution from agribusiness, deforestation and livestock. The Río Grande, or Río Diquis was at risk of becoming used for a hydro-electric plant and its impact on displacing many Térraba and China Kicha people, and destroying thousands of hectares of flora and fauna. This was fiercely opposed in a long battle by indigenous people and environmental groups alike, until a ruling to cancel the plans was made by the Supreme Court in 2018.

We remember Jehry Rivera, with Sergio Rojas, a BriBri land defender from Salitre, who was assassinated in March 2019.

Both land defenders had been beneficiaries of protective precautionary measures of the Inter-American Commission on Human Rights 321/12, since 30 April 2015.

To date, the Costa Rican State has responded to these murders with impunity.

**JEHRY RIVERA AND SERGIO ROJAS LIVE!
THE FIGHT GOES ON AND ON!**

LAND AND AUTONOMY FOR INDIGENOUS PEOPLES!

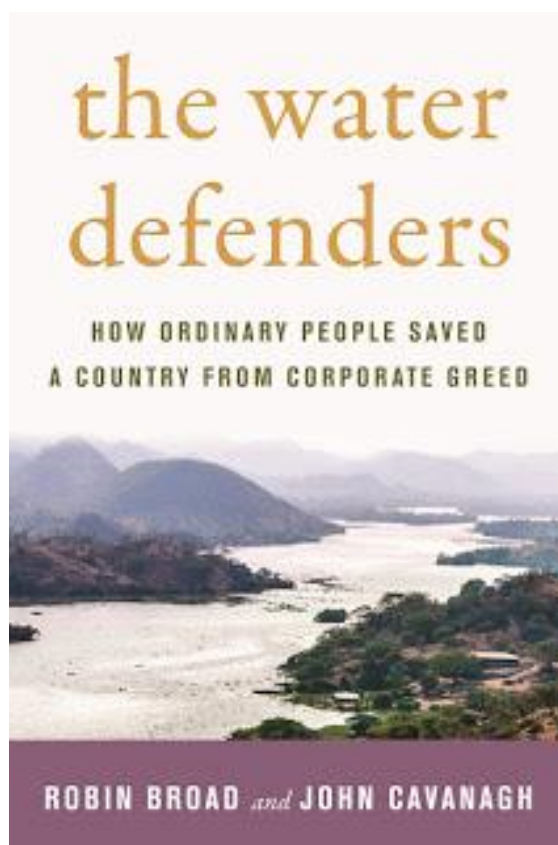
How ordinary people saved a country from corporate greed

Tim Muth, who runs *elsalvadorperspectives.com* reviews a new book on the Salvadoran fight against metallic mining.

Once in a while, determined activists, with grit and determination, can defeat a multi-national mining corporation. *The Water Defenders* is a new book with the inside story of the successful (but ongoing) struggle to prevent gold and other metallic mining in El Salvador.

Based on over a decade of research and their own role as international allies of the community groups in El Salvador, Robin Broad and John Cavanagh unspool this untold story — a tale replete with corporate greed, a transnational lawsuit at a secretive World Bank tribunal in Washington, violent threats, murders, and—surprisingly—victory. The husband-and-wife duo immerses the reader in the lives of the Salvadoran villagers, the journeys of the local activists who sought the truth about the effects of gold mining on the environment, and the behind-the-scenes manoeuvrings of the corporate mining executives and their lawyers. *The Water Defenders* demands that we examine our assumptions about progress and prosperity, while providing valuable lessons for those fighting against destructive corporations in the United States and across the world.

Central to the fight was the successful defence in an international arbitration before the World Bank in Washington, D.C., when El Salvador was sued by the gold mining company Pacific Rim, later acquired by Oceana Gold. Seeking hundreds of millions of dollars because successive governments in El Salvador had refused to grant the corporation 'exploitation' permits to mine gold under the hills of Cabañas, the mining company forced El Salvador to defend itself in an arbitration forum in Washington. *The Water Defenders* provides a behind-the-scenes look at the organisation, protests, and strategies which resulted in Oceana Gold defeated and owing El Salvador \$8 million.



Following the arbitration victory — led by Luis Parada, a Salvadoran lawyer who practices in Washington, D.C. — anti-mining activists lobbied and worked to get a law passed to prevent metallic mining across the whole country. The effort to convince Salvadoran politicians that protecting the precious water resource in the country was more important than the promise of revenues from goldmining, dangled by the mining industry, required coalition building and political savvy. Despite the odds, the water defenders managed to get the first nationwide ban on metallic mining enacted anywhere in the world.

Activists now want to make that ban on mining even more permanent. They know that the current ban remains at the whim of a simple majority of lawmakers and the president. So, they are seeking to have the ban included in El Salvador's constitution where it will be much more difficult to reverse.

Activists have also denounced the failure of the government to take other steps required by the law banning metallic mining. The government has not mitigated the impacts of past mining as the law requires. The law also allowed a grace period until March 2019 to wind down 'artisanal gold mining' — where individuals use their own efforts, like in the abandoned Commerce Group mine in San Sebastian, to extract gold. These small-scale miners had been refusing to give up their livelihoods without the transitional support required by the original law. Such artisanal mining is both dangerous to the environment and to the miners. The grace period lapsed without the cessation of small-scale mining.

In El Salvador, the coalition of water defenders come together as the National Roundtable Against Metallic Mining in El Salvador (the 'Mesa'). The Mesa also published a 144 page book (in Spanish) entitled "Sistematización de la lucha anti-minera en El Salvador" (Systematization of the Anti-mining struggle in El Salvador) which provides another comprehensive look at the organization, advocacy and ongoing struggle to get and maintain the ban on metallic mining in El Salvador.

The Water Defenders is now widely available, and can be purchased here: <https://bit.ly/3mb0hQu>

Sistematización de la lucha anti-minera en El Salvador is available as a downloadable book here: <https://bit.ly/3ukAKHt>

More of Tim Muth's work and writing can be found at elsalvadorperspectives.com

This article was edited to reflect the print nature of the ENCA newsletter.

Record number of attacks on human rights defenders in Guatemala in 2020

According to the Unit for the Protection of Human Rights Defenders in Guatemala (UDEFEGUA), a record-breaking number of human rights defenders were attacked in 2020. In total, UDEFEGUA documented 1,004 cases, which include 15 murders and 22 attempted murders. Women defenders were the targets of nearly 34 percent of the attacks. Four women defenders were killed, according to UDEFEGUA's statistics chart, making women 28 percent of the total number of defenders murdered. This figure represents a marked increase over previous years; in 2019, 11 percent of the defenders killed were female.

The number of attacks on defenders exceeds any annual tally since UDEFEGUA began documenting abuses against human rights defenders in 2000. UDEFEGUA in a December 17 communique noted that in an administration's first year, attacks on defenders usually diminish, but the opposite occurred in 2020, in spite of the shutdown mandated to control the spread of COVID-19. In fact, the shutdown appears to have been taken advantage of; according to UDEFEGUA's analysis, President Alejandro Giammattei has worked to consolidate authoritarianism and close democratic spaces. UDEFEGUA has called on the international community to denounce the attacks and pressure the Guatemalan government to prosecute crimes against human rights defenders.

Source: Guatemala Human Rights Commission (GHRC)



Over 7 million people will suffer a food crisis in Northern Triangle of Central America

On 15 February, the Central American Integration System (SICA by its Spanish initials) warned that by August this year 7.3 million people in the three countries of the Northern Triangle (El Salvador, Guatemala and Honduras) will either be suffering a food crisis or a food emergency.

The SICA explained that this situation is largely due to the Covid-19 pandemic but has been made worse by the effects of Hurricanes Eta and Iota. The two hurricanes not only destroyed the staple crops of many families and reduced family incomes, but also damaged many crops intended for export thereby raising the prices of these products.

The numbers affected in El Salvador are predicted to be just over one million, in Guatemala 3.7 million and in Honduras 3.3 million.

Source: 15 February 2021, *El Economista*, 'Unas 7.3 millones de personas del Triángulo Norte están en crisis alimentaria'.

World Water Day

Monday 22nd March was World Water Day and communities and organisations around Latin America and Central America took to the streets to defend the rights of everyone to safe potable water.

In El Salvador for many years a diverse coalition of organisations – churches, unions, environmental organisations, rural associations, women's groups and more – have combined in their determination to prevent water privatisation and to ensure clean water for all. They face powerful, moneyed interests.

The event was a reminder of the lesser known but most insightful statements made by Archbishop Monseñor Oscar Romero, now Saint Romero, just weeks before he was killed:

"When popular organisations are attacked, we know with what purpose. Because a disorganised people is like dough that can be played with; but a people who are organised in defence of their values, who defend justice, are a people who command respect."

With thanks to CISPES, the Committee in Solidarity with the People of El Salvador.

Meeting Dates 2021

June 20th | October 24th

ENCA meetings are usually held at the NSC's office at the Durham Road Centre, London, N7 7DT. Meetings are held on Sundays from 12:30 pm to 5 pm and we start with lunch which is made up of whatever people attending choose to bring to share.

In light of COVID-19 meetings may have to be held online